

SB2438



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB2438

Introduced 1/18/2006, by Sen. M. Maggie Crotty

SYNOPSIS AS INTRODUCED:

750 ILCS 45/14

from Ch. 40, par. 2514

Amends the Illinois Parentage Act of 1984. Eliminates the provision that requires that child support be a minimum of 10 dollars per month, regardless of the non-custodial parent's income.

LRB094 17074 AJ0 52356 b

A BILL FOR

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Parentage Act of 1984 is amended by
5 changing Section 14 as follows:

6 (750 ILCS 45/14) (from Ch. 40, par. 2514)

7 Sec. 14. Judgment.

8 (a) (1) The judgment shall contain or explicitly reserve
9 provisions concerning any duty and amount of child support and
10 may contain provisions concerning the custody and guardianship
11 of the child, visitation privileges with the child, the
12 furnishing of bond or other security for the payment of the
13 judgment, which the court shall determine in accordance with
14 the relevant factors set forth in the Illinois Marriage and
15 Dissolution of Marriage Act and any other applicable law of
16 Illinois, to guide the court in a finding in the best interests
17 of the child. In determining custody, joint custody, removal,
18 or visitation, the court shall apply the relevant standards of
19 the Illinois Marriage and Dissolution of Marriage Act,
20 including Section 609. Specifically, in determining the amount
21 of any child support award, the court shall use the guidelines
22 and standards set forth in subsection (a) of Section 505 and in
23 Section 505.2 of the Illinois Marriage and Dissolution of
24 Marriage Act. For purposes of Section 505 of the Illinois
25 Marriage and Dissolution of Marriage Act, "net income" of the
26 non-custodial parent shall include any benefits available to
27 that person under the Illinois Public Aid Code or from other
28 federal, State or local government-funded programs. ~~The court~~
29 ~~shall, in any event and regardless of the amount of the~~
30 ~~non-custodial parent's net income, in its judgment order the~~
31 ~~non-custodial parent to pay child support to the custodial~~
32 ~~parent in a minimum amount of not less than \$10 per month. In~~

1 an action brought within 2 years after a child's birth, the
2 judgment or order may direct either parent to pay the
3 reasonable expenses incurred by either parent related to the
4 mother's pregnancy and the delivery of the child. The judgment
5 or order shall contain the father's social security number,
6 which the father shall disclose to the court; however, failure
7 to include the father's social security number on the judgment
8 or order does not invalidate the judgment or order.

9 (2) If a judgment of parentage contains no explicit award
10 of custody, the establishment of a support obligation or of
11 visitation rights in one parent shall be considered a judgment
12 granting custody to the other parent. If the parentage judgment
13 contains no such provisions, custody shall be presumed to be
14 with the mother; however, the presumption shall not apply if
15 the father has had physical custody for at least 6 months prior
16 to the date that the mother seeks to enforce custodial rights.

17 (b) The court shall order all child support payments,
18 determined in accordance with such guidelines, to commence with
19 the date summons is served. The level of current periodic
20 support payments shall not be reduced because of payments set
21 for the period prior to the date of entry of the support order.
22 The Court may order any child support payments to be made for a
23 period prior to the commencement of the action. In determining
24 whether and the extent to which the payments shall be made for
25 any prior period, the court shall consider all relevant facts,
26 including the factors for determining the amount of support
27 specified in the Illinois Marriage and Dissolution of Marriage
28 Act and other equitable factors including but not limited to:

29 (1) The father's prior knowledge of the fact and
30 circumstances of the child's birth.

31 (2) The father's prior willingness or refusal to help
32 raise or support the child.

33 (3) The extent to which the mother or the public agency
34 bringing the action previously informed the father of the
35 child's needs or attempted to seek or require his help in
36 raising or supporting the child.

1 (4) The reasons the mother or the public agency did not
2 file the action earlier.

3 (5) The extent to which the father would be prejudiced
4 by the delay in bringing the action.

5 For purposes of determining the amount of child support to
6 be paid for any period before the date the order for current
7 child support is entered, there is a rebuttable presumption
8 that the father's net income for the prior period was the same
9 as his net income at the time the order for current child
10 support is entered.

11 If (i) the non-custodial parent was properly served with a
12 request for discovery of financial information relating to the
13 non-custodial parent's ability to provide child support, (ii)
14 the non-custodial parent failed to comply with the request,
15 despite having been ordered to do so by the court, and (iii)
16 the non-custodial parent is not present at the hearing to
17 determine support despite having received proper notice, then
18 any relevant financial information concerning the
19 non-custodial parent's ability to provide child support that
20 was obtained pursuant to subpoena and proper notice shall be
21 admitted into evidence without the need to establish any
22 further foundation for its admission.

23 (c) Any new or existing support order entered by the court
24 under this Section shall be deemed to be a series of judgments
25 against the person obligated to pay support thereunder, each
26 judgment to be in the amount of each payment or installment of
27 support and each such judgment to be deemed entered as of the
28 date the corresponding payment or installment becomes due under
29 the terms of the support order. Each judgment shall have the
30 full force, effect and attributes of any other judgment of this
31 State, including the ability to be enforced. A lien arises by
32 operation of law against the real and personal property of the
33 noncustodial parent for each installment of overdue support
34 owed by the noncustodial parent.

35 (d) If the judgment or order of the court is at variance
36 with the child's birth certificate, the court shall order that

1 a new birth certificate be issued under the Vital Records Act.

2 (e) On request of the mother and the father, the court
3 shall order a change in the child's name. After hearing
4 evidence the court may stay payment of support during the
5 period of the father's minority or period of disability.

6 (f) If, upon a showing of proper service, the father fails
7 to appear in court, or otherwise appear as provided by law, the
8 court may proceed to hear the cause upon testimony of the
9 mother or other parties taken in open court and shall enter a
10 judgment by default. The court may reserve any order as to the
11 amount of child support until the father has received notice,
12 by regular mail, of a hearing on the matter.

13 (g) A one-time charge of 20% is imposable upon the amount
14 of past-due child support owed on July 1, 1988 which has
15 accrued under a support order entered by the court. The charge
16 shall be imposed in accordance with the provisions of Section
17 10-21 of the Illinois Public Aid Code and shall be enforced by
18 the court upon petition.

19 (h) All orders for support, when entered or modified, shall
20 include a provision requiring the non-custodial parent to
21 notify the court and, in cases in which party is receiving
22 child support enforcement services under Article X of the
23 Illinois Public Aid Code, the ~~Illinois~~ Department of Healthcare
24 and Family Services ~~Public Aid~~, within 7 days, (i) of the name
25 and address of any new employer of the non-custodial parent,
26 (ii) whether the non-custodial parent has access to health
27 insurance coverage through the employer or other group coverage
28 and, if so, the policy name and number and the names of persons
29 covered under the policy, and (iii) of any new residential or
30 mailing address or telephone number of the non-custodial
31 parent. In any subsequent action to enforce a support order,
32 upon a sufficient showing that a diligent effort has been made
33 to ascertain the location of the non-custodial parent, service
34 of process or provision of notice necessary in the case may be
35 made at the last known address of the non-custodial parent in
36 any manner expressly provided by the Code of Civil Procedure or

1 this Act, which service shall be sufficient for purposes of due
2 process.

3 (i) An order for support shall include a date on which the
4 current support obligation terminates. The termination date
5 shall be no earlier than the date on which the child covered by
6 the order will attain the age of 18. However, if the child will
7 not graduate from high school until after attaining the age of
8 18, then the termination date shall be no earlier than the
9 earlier of the date on which the child's high school graduation
10 will occur or the date on which the child will attain the age
11 of 19. The order for support shall state that the termination
12 date does not apply to any arrearage that may remain unpaid on
13 that date. Nothing in this subsection shall be construed to
14 prevent the court from modifying the order or terminating the
15 order in the event the child is otherwise emancipated.

16 (i-5) If there is an unpaid arrearage or delinquency (as
17 those terms are defined in the Income Withholding for Support
18 Act) equal to at least one month's support obligation on the
19 termination date stated in the order for support or, if there
20 is no termination date stated in the order, on the date the
21 child attains the age of majority or is otherwise emancipated,
22 the periodic amount required to be paid for current support of
23 that child immediately prior to that date shall automatically
24 continue to be an obligation, not as current support but as
25 periodic payment toward satisfaction of the unpaid arrearage or
26 delinquency. That periodic payment shall be in addition to any
27 periodic payment previously required for satisfaction of the
28 arrearage or delinquency. The total periodic amount to be paid
29 toward satisfaction of the arrearage or delinquency may be
30 enforced and collected by any method provided by law for
31 enforcement and collection of child support, including but not
32 limited to income withholding under the Income Withholding for
33 Support Act. Each order for support entered or modified on or
34 after the effective date of this amendatory Act of the 93rd
35 General Assembly must contain a statement notifying the parties
36 of the requirements of this subsection. Failure to include the

1 statement in the order for support does not affect the validity
2 of the order or the operation of the provisions of this
3 subsection with regard to the order. This subsection shall not
4 be construed to prevent or affect the establishment or
5 modification of an order for support of a minor child or the
6 establishment or modification of an order for support of a
7 non-minor child or educational expenses under Section 513 of
8 the Illinois Marriage and Dissolution of Marriage Act.

9 (j) An order entered under this Section shall include a
10 provision requiring the obligor to report to the obligee and to
11 the clerk of court within 10 days each time the obligor obtains
12 new employment, and each time the obligor's employment is
13 terminated for any reason. The report shall be in writing and
14 shall, in the case of new employment, include the name and
15 address of the new employer. Failure to report new employment
16 or the termination of current employment, if coupled with
17 nonpayment of support for a period in excess of 60 days, is
18 indirect criminal contempt. For any obligor arrested for
19 failure to report new employment bond shall be set in the
20 amount of the child support that should have been paid during
21 the period of unreported employment. An order entered under
22 this Section shall also include a provision requiring the
23 obligor and obligee parents to advise each other of a change in
24 residence within 5 days of the change except when the court
25 finds that the physical, mental, or emotional health of a party
26 or that of a minor child, or both, would be seriously
27 endangered by disclosure of the party's address.

28 (Source: P.A. 92-590, eff. 7-1-02; 92-876, eff. 6-1-03; 93-139,
29 eff. 7-10-03; 93-1061, eff. 1-1-05; revised 12-15-05.)